

**[4310-MR-W]**

**DEPARTMENT OF THE INTERIOR**

**Minerals Management Service**

**Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request**

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Notice of an extension of a currently approved information collection (OMB Control Number 1010-0129).

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**SUMMARY:** To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of this paperwork requirement. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements. The ICR is titled “Royalty-in-Kind Pilot Program — Offers, Financial Statements, and Surety Instruments for Sales of Royalty Oil and Gas.”

**DATES:** Submit written comments on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER](#).

**ADDRESSES:** Submit written comments by either fax (202) 395-5806 or email ([Ruth\\_Solomon@omb.eop.gov](mailto:Ruth_Solomon@omb.eop.gov)) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010-0129). Mail or hand-carry a copy of your comments to Sharron L. Gebhardt, Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 320B2, Denver, Colorado 80225. If you use an overnight courier service,

our courier address is Building 85, Room A-614, Denver Federal Center, Denver, Colorado 80225. You may also email your comments to us at [mrm.comments@mms.gov](mailto:mrm.comments@mms.gov). Include the title of the information collection and the OMB Control Number in the “Attention” line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your email, contact Ms. Gebhardt at (303) 231-3211.

**FOR FURTHER INFORMATION CONTACT:** Sharron L. Gebhardt, telephone (303) 231-3211, FAX (303) 231-3781, email [Sharron.Gebhardt@mms.gov](mailto:Sharron.Gebhardt@mms.gov). You may also contact Sharron Gebhardt to obtain a copy at no cost of the regulations that require the subject collection of information.

**SUPPLEMENTARY INFORMATION:**

*Title:* “Royalty-in-Kind Pilot Program — Offers, Financial Statements, and Surety Instruments for Sales of Royalty Oil and Gas.”

*OMB Control Number:* 1010-0129.

*Bureau Form Number:* None.

*Abstract:* The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) under the Mineral Leasing Act (MLA) (30 U.S.C. 1923) and the OCS Lands Act (43 U.S.C. 1353) is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from

lessees who produce minerals, and distributing the funds collected in accordance with applicable laws.

MMS performs the royalty management functions for the Secretary.

Taking and selling of the Government's royalty share in the form of production or "in kind" (RIK) is authorized by the MLA, 30 U.S.C. 192, for onshore leases and the OCS Lands Act, 43 U.S.C. 1353, for offshore leases. Recommendations in an MMS 1997 Feasibility Study concluded that, under the right conditions, RIK could be workable, revenue positive, and administratively more efficient for Government and industry. Pursuant to the 1997 study's recommendations, MMS is conducting the following pilots.

- For oil from Federal leases in Wyoming which began October 1, 1998;
- For gas from Federal leases offshore the State of Texas [Texas 8(g)] which began December 1, 1998;
- For gas from Federal offshore leases in the Gulf of Mexico (GOM) Region which began in October 1999. This involves the largest production volumes; and
- For oil from Federal offshore leases in the GOM Region which began in October 2000.

In addition to the above pilots, on November 6, 2001, President Bush announced an initiative to refill the Strategic Petroleum Reserve (SPR). MMS, in coordination with the Department of Energy (DOE), entered into a joint, 3-year initiative to fill the remaining capacity of the SPR. Operators of Federal leases in the GOM will deliver royalty oil to MMS' exchange partner at or near the lease. MMS's exchange partner will then deliver similar quantities of crude oil to MMS or its designated agent at Gulf Coast market centers.

MMS's designated agent will be either DOE or its exchange contractor. DOE will then contract for exchange or direct movement of exchange oil to the SPR.

The feasibility and cost-effectiveness of MMS providing RIK production direct to other Federal agencies for their consumption is also being investigated in conjunction with the pilots.

MMS, as the responsible steward of Federal mineral revenues, is conducting the pilot programs of oil and gas RIK sales and investigation of direct Federal consumption to show conclusively whether or not RIK is viable for the Federal Government, and, if so, how, when, and where it makes sense to exercise the RIK option.

Offers, Financial Statements, and Surety Instruments for Sales of Royalty Oil and Gas.

The collections of information addressed in this ICR are necessary because the Secretary of the Interior is obligated to hold competition when selling to the public to protect actual RIK production before, during, and after any sale, and obtain a fair return on royalty production sold. MMS must fulfill those obligations for the Secretary. The reporting requirements are as follows:

- a. The actual offers that potential purchasers will submit when MMS offers production for competitive sales;
- b. Offerors' statements of financial qualification; and
- c. Surety Instruments, such as a Letter of Credit (LOC), Bond, prepayment, or Parent Guaranty.

MMS has also re-evaluated the need for two reporting requirements that were approved by OMB in the last ICR submission and has decided that this information is no longer needed.

These reporting requirements are (1) Form MMS-4440, Summary of Receipt and Delivery Volumes, and (2) Report of Gas Analysis. Also, the subject heading “LOC” has been changed to the more generic heading “Surety Instruments” to capture the broader field of financial instruments that may be collected under this ICR, such as Bonds, prepayments, and Parent Guarantees. That is, an LOC is just one of the many types of surety instruments used by MMS that provide a safeguard against non-payment by a respondent under an RIK contract.

MMS is requesting OMB's approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge his/her duties and may also result in loss of royalty payments. Proprietary information submitted is protected, and there are no questions of a sensitive nature included in this information collection.

We have also changed the title of this ICR from “Bids and Financial Statements for Sale of Royalty Oil and Gas (RIK Pilots) (Form MMS-4440) to “Royalty-in-Kind Pilot Program — Offers, Financial Statements, and Surety Instruments for Sales of Royalty Oil and Gas” to clarify the regulatory language.

*Frequency:* On occasion.

*Estimated Number and Description of Respondents:* 80 oil and gas companies.

*Estimated Annual Reporting and Recordkeeping “Hour” Burden:* 940 hours.

The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. Therefore, we consider these to be usual and customary and took that into account in estimating the burden.

**Respondent Annual Burden Hour Chart**

<b>Royalty-in-Kind Pilot Projects</b>	<b>Reporting Requirements</b>	<b>Burden Hours per Response</b>	<b>Annual Number of Responses</b>	<b>Annual Burden Hours</b>
	Offers	1	840	840
	Financial Statements	1	20	20
	Surety Instruments	4	20	80
<b>Total</b>			<b>880</b>	<b>940</b>

(NOTE: A respondent is counted each time they respond. Unsuccessful offerors will submit only 2 responses.)

*Estimated Annual Reporting and Recordkeeping “Non-hour Cost” Burden:* We have identified no “non-hour” cost burdens.

*Public Disclosure Statement:* The PRA (44 U.S.C. 3501, et seq.) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

*Comments:* Section 3506(c)(2)(A) of the PRA requires each agency “\* \* \* to provide notice \* \* \* and otherwise consult with members of the public and affected agencies concerning each proposed collection of information \* \* \*.” Agencies must specifically solicit comments to: (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated

collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the *Federal Register* on April 8, 2003 (68 FR 17075) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the ADDRESSES section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

*Public Comment Policy:* We will post all comments in response to this notice on our web site at [http://www.mrm.mms.gov/Laws\\_R\\_D/InfoColl/InfoColCom.htm](http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm). We will also make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request that we withhold their home address from the public record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying

themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

*MMS Information Collection Clearance Officer:* Jo Ann Lauterbach, (202) 208-7744.

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Date

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Lucy Querques Denett  
*Associate Director for  
Minerals Revenue Management*